

# **EXHIBIT 37**

## **Peterson Inquest Testimony**

STATE OF WISCONSIN : CIRCUIT COURT : MILWAUKEE COUNTY  
BRANCH 27

---

In Re Inquest into the Death of  
DEREK WILLIAMS,

Case No. 12JD0027

---

FEBRUARY 12, 2013

HONORABLE KEVIN E. MARTENS  
Presiding Judge

APPEARANCES:

ATTORNEY JOHN FRANKE, Assigned as Special  
Prosecutor, appeared on behalf of the State.

Kelly Janowski - Court Reporter

1 way?

2 A. I was not trying to cover up anything, sir.

3 Q. And in anything else you've done in this case, does  
4 that motivate bias on your part?

5 A. I believe I've been very forthright with both my  
6 mistakes and my decision making processes in this  
7 matter.

8 ATTORNEY FRANKE: Unless the jury  
9 has a question, I'll excuse the witness.

10 THE COURT: Any hands for questions?  
11 All right. Seeing none.

12 ATTORNEY FRANKE: You may step  
13 down, sir.

14 THE COURT: Mr. Poulos, thank you  
15 very much. Dr. Poulos, thank you.

16 (The witness is excused.)

17 ATTORNEY FRANKE: The State will  
18 call Dr. Brian Peterson.

19 THE COURT: Dr. Peterson, if you  
20 could come forward, please.

21 BRIAN PETERSON, called as a witness  
22 herein, being first duly sworn, was examined and  
23 testified as follows:

24 THE CLERK: Do you solemnly swear  
25 that the evidence and testimony you give to this

1           inquest concerning the death of the person known as  
2           Derek Williams shall be the truth, the whole truth,  
3           and nothing but the truth so help you God?

4                       THE WITNESS:   I do.

5                       THE CLERK:   Please, have a seat.  I  
6           need you to state your name and then, please, spell  
7           your first and last for the record.

8                       THE WITNESS:   My name is Brian  
9           Peterson, B-r-i-a-n, P-e-t-e-r-s-o-n.

10                      THE COURT:   Mr. Franke.

11                               EXAMINATION

12   BY ATTORNEY FRANKE:

13   Q.   Good morning, Dr. Peterson.

14   A.   Good morning.

15   Q.   Would you begin by stating your current position?

16   A.   I'm the medical examiner for Milwaukee County.

17   Q.   How long have you been the medical examiner for  
18       Milwaukee County?

19   A.   Almost three years now.

20   Q.   I'm going to show you what's marked for  
21       identification as Exhibit 224.  Can you tell us  
22       what that is?

23   A.   This is a current copy of my curriculum vitae.

24   Q.   Could you summarize for the jury your education and  
25       your professional career as it led up to your

1 know. We all get exposure to harder cases and  
2 longer cases and whatever.

3 So that morning like any morning we  
4 would have had had rounds. So we are looking at  
5 and discussing all the bodies that are there. The  
6 on-call pathologist, Dr. Poulos, said, okay, I'll  
7 take this one. What else the rest of you want to  
8 do depending on the number of cases, we divide them  
9 up and go to work.

10 Q. I don't know if you checked. I didn't ask you to.  
11 Do you know how many cases may have been in the  
12 office on July 6th, 2011?

13 A. Presently I don't. We could find that number  
14 though. We have paperwork and logs and so forth.  
15 We can go back and reconstruct it day-by-day. I  
16 just didn't do it.

17 Q. Is there any different procedure followed for an  
18 autopsy when it is a death in police custody?

19 A. There are -- Sometimes other people attend the  
20 autopsy. Sometimes not. So, for example, on  
21 occasion Mr. Chisholm, the district attorney, will  
22 attend or one of his deputy district attorneys will  
23 attend.

24 As far as the actual physical  
25 procedure of the autopsy, sometimes there's extra

1 evidence to collect. You've seen pictures with the  
2 paper bags over the hands, for example. Most  
3 bodies don't come in that way.

4 So when a body does, there's an  
5 extra step to collect those bags to collect  
6 fingernail clippings. Sometimes swabbing of hands  
7 and so forth for DNA. It kind of depends on the  
8 needs of the case and the circumstances.

9 But in the typical in-custody type  
10 death, there will be extra steps like that.  
11 Otherwise, the autopsy is pretty much the  
12 autopsy.

13 Q. Dr. Poulos mentioned yesterday examining the  
14 testicles of the body in a way that wouldn't  
15 normally be done. Is that your understanding of  
16 the procedure that would be followed for a police  
17 custody death?

18 A. That's a common thing to add. Some of us take the  
19 testicles out as a matter of routine. I don't  
20 think he does. It's not necessarily a part of the  
21 autopsy. So if it's not a part of your normal  
22 autopsy, you might do it for a case like this.

23 Q. Any other differences in how a police custody death  
24 case would be handled by your office in July of  
25 2011?

1 looking at I mean a relatively large piece of  
2 tissue on there. But a microscopic field can be  
3 small to really small depending on what power you  
4 are using. So we'll talk about say the number of  
5 low powered fields, the number of high powered  
6 fields.

7 Again, there's no magic number  
8 there. It's a matter of looking at enough of a  
9 slide to make a decision as to what's going on on  
10 that slide.

11 Q. As you sit here today, are you able to recall  
12 actually looking at Derek Williams' slides and what  
13 you saw?

14 A. It's hard. Can I picture that in my head?  
15 Probably not. But now that we are talking about  
16 it, I think that I can. I really don't know.

17 Q. Did you reach any conclusion in looking at the  
18 slides at that time?

19 A. I did.

20 Q. What conclusion did you reach?

21 A. My conclusion was that there were significant  
22 sickled thrombi pretty much everywhere I looked.

23 Q. Did you share that conclusion with Dr. Poulos?

24 A. I did.

25 Q. When you're looking at a slide of tissue, what --

1 A. As best I can recall when Dr. Poulos ultimately got  
2 his hands on the police report, he thought at that  
3 point that perhaps the nature of this case required  
4 a higher level of review.

5 So what he did was he brought me his  
6 autopsy report, all the glass slides, our internal  
7 investigative report, and the police report.

8 I reviewed all of that material and  
9 determined at that point that we needed to make  
10 some changes both in the way the report was ordered  
11 as you heard earlier and in the manner of death,  
12 and that happened pretty fast. I think it was  
13 within a just a few days we had the new report  
14 issued.

15 Q. What is the date on the second report?

16 A. Dr. Poulos and I -- I signed it on the 17th. He  
17 signed it on the 18th.

18 Q. Of?

19 A. Of September.

20 Q. September of 2012?

21 A. Yes.

22 Q. So this is approximately a year after the first  
23 report?

24 A. Correct.

25 Q. Was there any change in the cause of death?



1 A. No.

2 Q. Have you been in court for some of the testimony  
3 about the hyoid bone?

4 A. I have.

5 Q. Was there a change in the report with respect to  
6 the hyoid bone?

7 A. Yes, there was.

8 Q. Why don't we try to follow that hyoid bone issue  
9 through and treat it separately. What change was  
10 made in the report regarding the hyoid bone and  
11 why?

12 A. In the initial report, Dr. Poulos had listed a  
13 fracture of the hyoid bone under Evidence of  
14 Medical Therapy. My thinking was was that I could  
15 not confidently associate a fractured hyoid with  
16 placement of the breathing tube.

17 So I had him move it into the  
18 separate section and just called that Evidence of  
19 Injury with a certain understanding that medical  
20 treatment can be considered injury in some cases.

21 I thought that you couldn't prove  
22 that though. So we just moved it into a separate  
23 section.

24 Q. Did the first report indicate that either a  
25 possible cause or the likely cause of the fracture

1     A.     In terms of the front page there, I changed the  
2           manner of death from natural to homicide.  And it's  
3           really more of a technical change, and it relates  
4           to the circumstances of death which is where manner  
5           normally comes from.

6                         So the way a forensic pathologist  
7           thinks if other people were involved or potentially  
8           involved in the death, that can have a bearing on  
9           manner.

10                        By way of analogy, somebody could  
11           have say a heart attack and that would be a natural  
12           death.  If they had a heart attack but they are out  
13           swimming, that might end up being an accidental  
14           death with a component of drowning.  That sort of a  
15           thing.

16                        Once I was able to review the police  
17           report in this case and realize that there had been  
18           a hands-on struggle, realize that Mr. Williams had  
19           been talking about being short of breath at the end  
20           of that struggle once he was restrained, my  
21           thinking was that it was impossible to say that  
22           that struggle didn't fuel the sickle crisis.

23                        Because I couldn't say -- sorry  
24           about the double negative -- that it didn't fuel a  
25           sickle crisis or play a role than the manner of

1 death has to become a homicide.

2 Q. I'm sorry. The last part of the answer, the manner  
3 of death?

4 A. It has to become a homicide.

5 Q. Thank you. Why do you feel that was a  
6 requirement?

7 A. Well, it's a matter of definition. If, for  
8 example, there had been no police involvement at  
9 all and if Mr. Williams had been found dead in bed  
10 and then the autopsy results had been the same,  
11 then we might be looking at a natural death.

12 On the other hand, because other  
13 people were involved that's where the deaths at the  
14 hands of another comes in. We do know that there  
15 were several stresses in the last half hour of  
16 Mr. Williams' life beginning with the flight, the  
17 armed robbery attempt and the flight, banging into  
18 things, struggle with police, restraint, both prone  
19 and supine, led to car, et cetera. So there are a  
20 number of stressors there.

21 I don't have a scientific way of  
22 dividing those out. In other words, I can't say  
23 that any one stressor wasn't involved or was more  
24 important than the others.

25 But I have to acknowledge that they

1           were all there. So by calling it a homicide, I'm  
2           simply acknowledging that all of those stressors  
3           were there.

4    Q.    Let me get back to this in a moment and the cause  
5           of death. But did the second report highlight  
6           blunt force injuries in a different way?

7    A.    Well, maybe highlight is a word. I asked  
8           Dr. Poulos to create a separate category on page 2  
9           and list the different blunt force injuries that  
10          we talked about separately for the purpose of  
11          clarity.

12   Q.    This was up for the jury before. You may have been  
13          in court. Is this the page 2 and the section that  
14          you're referring to?

15   A.    It is.

16   Q.    Was the description of these injuries on page 4 and  
17          5 of the report also changed to provide headings  
18          identifying the various blunt force injuries?

19   A.    Yes.

20   Q.    Were any new blunt force injuries identified in the  
21          second report that hadn't been identified in the  
22          first?

23   A.    No.

24   Q.    Is it fair to say that the way the blunt force  
25          injuries were handled in the second report was

1            simply a different type of organization and  
2            different listing of them?

3    A.    With the one exception of the hyoid bone being  
4           taken out of medical therapy and moved to injury,  
5           everything else was about the same.

6    Q.    Was there any difference in your mind regarding the  
7           extent to which these things called blunt force  
8           injuries had contributed to a possible sickle cell  
9           crisis?

10   A.    I think I looked at that the same way from the  
11           first to the second case.  Again, the blunt force  
12           injuries are simply markers of force applied.  And  
13           as is typical of blunt force injury, whether they  
14           indicate that somebody hit Mr. Williams or  
15           Mr. Williams hit something, I can't say.

16                            I can only say that he had the  
17           injuries, and they are consistent with his history.  
18           So to that extent, they helped feed into the manner  
19           of death.  But nothing changed there from the first  
20           to the second autopsy report.

21   Q.    Did you view the video of Derek Williams in the  
22           back of the squad car at any time?

23   A.    I did.

24   Q.    Do you have a recollection as to when you first  
25           reviewed it?

1 blood vessel level as the blood vessels plug. I  
2 think a patient will experience that as difficulty  
3 breathing. And in that video, Mr. Williams  
4 expressed that difficulty. So I thought that was  
5 consistent with the cause of death.

6 Q. Was there anything about the video that affected  
7 your opinion as to the manner of death?

8 A. No.

9 Q. Did you review the video again at any point?

10 A. No. I watched -- I watched the whole thing the one  
11 time.

12 Q. Other than perhaps it being on the news, have you  
13 sat down and reviewed since that first time?

14 A. No.

15 Q. Do you have an opinion as to the cause of death in  
16 this case?

17 A. I do.

18 Q. Is that independent of Dr. Poulos's conclusion?

19 A. I think I worded it a bit differently than he did.  
20 My, "Due to the flight from and altercation with  
21 the police," wasn't in his first report.

22 Q. What is your opinion as to the cause of death in  
23 this case?

24 A. The cause of death is sickle cell crisis due to  
25 flight from and altercation with police.

1           could be lab tests, whatever. We go through that  
2           whole process.

3                         And at the end of the day, when  
4           things work out right, we have an answer and that's  
5           the cause of death. Sometimes there's not enough  
6           to go on. Think about a skeletonized body, no  
7           organs, no injuries. That's kind of tough, but  
8           there's simply not enough.

9                         Sometimes, rarely, we'll have a case  
10          where we have an intact body and it's a -- maybe  
11          there's not any history but everything checks out  
12          normal. Those are the very puzzling, frustrating  
13          cases.

14                        Those we might call undetermined.  
15          It doesn't happen real often, but it happens.

16                        In a case like this, after  
17          everything that we went through we have good  
18          findings. All right. These sickled thrombi in a  
19          lot of organs, the nature of those thrombi, that's  
20          a good finding. So as far as I'm concerned, that's  
21          the cause of death.

22                        I'm not sure if that answers your  
23          questions, but that's how doctors do it at least  
24          this doctor.

25    Q.    Do you agree that there is a dispute within the

1 ahead and dispute.

2 Q. Do you agree that a pathologist though, a person  
3 acting as a pathologist, trying to determine cause  
4 of death in a case like this does have to address  
5 the question of whether the sickling observed in  
6 the microscope evidence occurred as a consequence  
7 of death or whether it occurred before death?

8 A. Oh, sure. I mean we have a lot of issues like  
9 that. Drugs are a big one, you know. Did somebody  
10 die of an overdose? Or did they die with drugs in  
11 their system and died of something else?

12 In a lot of cases, there is no one  
13 right answer, you know. In the case of somebody  
14 with multiple medical disease processes, a heart  
15 disease or the cancer or the emphysema, that was  
16 the cause of death, you know, maybe they all were.  
17 But we have to pick one.

18 So in terms of the specific issue,  
19 discerning whether or not that sickling was before  
20 death or after death, I believe based on my  
21 experience and training I can do that.

22 But I would also say that not every  
23 pathologist has had the same experience. I mean  
24 doctors have -- they have different cases and  
25 experiences and so forth, some more, some less.